

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CLYDE FOCKLER,

Movant

v.

CIVIL ACTION NO. 2:07-00799
(Criminal No. 2:00-00048-01)

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OPINION AND ORDER

The court having received the proposed findings and recommendation of the United States Magistrate Judge filed on August 19, 2008, pursuant to the provisions of 28 U.S.C.

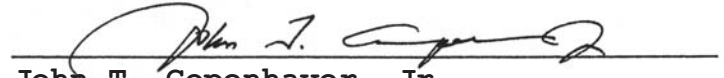
§ 636(b)(1)(B); and having reviewed the record in this proceeding; and there being only non-meritorious objections filed by the movant to the proposed findings and recommendation; and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the proposed findings and recommendation of the magistrate judge be, and they hereby are, adopted by the court.

It is, accordingly, ORDERED that the movant's motion is appropriately construed as a successive section 2255 motion and that his motion, whether treated as a section 2255 motion or a

Rule 60(b) motion, be, and it hereby is, denied. It is further ORDERED that this action be, and it hereby is, dismissed.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record, and the magistrate judge.

DATED: September 19, 2008


John T. Copenhaver, Jr.
United States District Judge